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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 3665/2017, CM APPL. 27752/2017, CM APPL. 27753/2017
M/S GUINNESS COLLECTION Petitioner
Through Mrs. Anjali J. Manish, Advocate
versus
SATYA PAL Respondent
Through None.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA
ORDER
% **17.08.2017**

CM APPL. 16128/2017

This application u/s 151 of the CPC has been filed on behalf of the petitioner seeking exemption from filing the original / copy of the annexures is allowed, subject to just exceptions.

The application is disposed of.

W.P.(C) 3665/2017 & CM APPL. 27752/2017

Vide the present writ petition the petitioner assails the impugned Award dated 19.02.2016 of the learned POLC-XVII, Karkardooma Courts, Delhi in LIR no. 7096/2016 by which the workman arrayed as respondent to the present petition being Satya Pal was awarded a lump-sum compensation of Rs.3,00,000/- which was directed to be paid to the claimant / the respondent herein within one month from the date of publication of the award failing which the management was to be liable to pay interest @9% per annum from the date of the impugned Award dated 19.02.2016 till realization, it having been held vide the impugned Award inter alia to the effect that the services of the workman / the respondent herein had been

illegally terminated.

Presently the Court is not looking into the merits of the matter, however, in view of the fact that the petition is accompanied with CM APPL. 27752/2017 an application u/s 151 CPC filed by the petitioner seeking condonation of delay of **355 days** in filing the writ petition, which is supported with an affidavit dated 02.08.2017 of the sole proprietor of the petitioner's firm submitting to the effect that as per the period of limitation applicable and the time spent in obtaining the certified copy of the impugned order, **the petition was liable to be filed on or before 05.05.2016 but the same was filed on 26.04.2017 and thus there is a delay of 355 days in filing the petition.**

It has been submitted through the application under consideration that the said delay has occurred '**mainly on account**' of the fact that the earlier counsel did not inform the petitioner that the order had been passed i.e. the Award had been made and that after much follow up, the counsel disclosed that the order has been pronounced against the petitioner but assured him not to worry and that he was preparing the appeal and that when the petitioner's counsel did not prepare the appeal, finally, the petitioner obtained the copy of the order from him and was shocked to see that the same had been pronounced on 19.02.2016 itself. Through the application, it has thus been submitted that the petitioner engaged a new counsel and in the process a delay of 355 days had occurred in filing the appeal and the delay in filing the present appeal is bonafide and unintentional and had occurred beyond the control of the petitioner and that the balance of convenience is in favour of the petitioner.

During the course of the submissions that have been made on behalf of the petitioner today, learned counsel for the petitioner submits that the present petition is a writ to which the parameters of the law of the limitation are not applied strictly. Even if the said aspect is taken into account, and the submissions made on behalf of the petitioner by learned counsel present to the effect that the litigant ought not to suffer due to the lapses of his counsel are taken into account, the same cannot and does not absolve the litigant of his duties to pursue his/its case diligently. The observations in the application under consideration are specifically silent in relation to this aspect in as much as the observations / submissions made in para 4 of the application do not specify specifically. The diligence, if any, exercised by the petitioner and the factum that it is mentioned in **‘para 4’** of the application that the delay had occurred **‘mainly’** on the account of lapse of the previous counsel itself speaks of factors other than lapses of the previous counsel.

It cannot be also overlooked that the litigant himself/itself was also under an obligation to ascertain as to what is the fate of its litigation pending before the Labour Court and through the application under consideration, there is nothing brought forth to indicate that the petitioner has been able to satisfactorily explain the delay in filing the instant writ petition and thus there is no ground to allow the CM APPL. 27752/2017, which is thus declined and the W.P.(C) 3665/2017 is accordingly dismissed on the ground of laches.

ANU MALHOTRA, J

AUGUST 17, 2017/mk